

Forfeiting the Fourth: How Fourth Amendment Forfeitures as a Condition of Plea Deals Cheapen Fundamental Rights



Working Thesis

Fourth Amendment forfeitures imposed through plea deals are unconstitutional because they coerce people to surrender a fundamental right in exchange for liberty, undermining the very purpose of constitutional protections.

The Issue

What are Fourth
Amendment waivers as a
condition of plea deals?

What is the effect of this practice?



The defendant “shall submit to search and seizure of his person, property, place of residence, vehicle and personal effects, at any time of day or night by any law enforcement officer with or without a search warrant, warrant of arrest or reasonable cause for a period of 3 years from the date of his release from active incarceration.”

Text from Richmond plea deals

Waiver

“intentional
relinquishment or
abandonment of a
known right or
privilege”

Forfeiture

A defendant can forfeit
rights or defenses “without
ever having made a
deliberate, informed
decision to relinquish them,
and without ever having
been in a position to make a
cost-free decision to assert
them.”

A solid black silhouette of the state of Virginia, including the Eastern Shore, is positioned in the background. The text is centered over the main body of the state.

What does
this look like
in Virginia?

A black outline map of the state of Virginia is centered on a white rectangular background. The map shows the state's irregular borders, including the Chesapeake Bay and the surrounding water bodies. The text "Virginia History" is superimposed on the right side of the map.

Virginia History

Tie to Civil Rights History



What does this
mean for our rights?

Conclusion

Any
advice?